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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Part 95 of the Commission's Rules
to Allow Interactive Video and Data Service
Licensees to Provide Mobile Service to
Subscribers

WT Docket No. 95-47

**REPLY IN SUPPORT OF ITV, INC. AND IVDS AFFILIATES' PETITION FOR
RECONSIDERATION/CLARIFICATION**

EON Corporation ("EON") hereby submits its Reply in Support of ITV, Inc.
("ITV") and IVDS Affiliates, LC's ("IALC") Petition for Reconsideration/Clarification
("Petition for Reconsideration") of the Federal Communication Commission's ("FCC" or
the "Commission") Report and Order in the above-captioned proceeding.¹

INTRODUCTION

ITV and IALC ask the Commission to clarify² the Mobility Order by finding that
IVDS licensees are not prohibited from interconnecting with the public switched network

¹ *Amendment of Part 95 of the Commission's Rules to Allow Interactive Video and Data Service Licensees to Provide Mobile Service to Subscribers*, 11 FCC Rcd 6610 (1996) (the "Mobility Order"). In the Mobility Order, the Commission correctly decided to allow Interactive Video and Data Service ("IVDS") licensees to provide mobile, as well as fixed, services.

² On July 1, 1996, ITV and IALC filed a joint letter with the Wireless Telecommunications Bureau requesting clarification of the Commission's Mobility Order in the above-captioned proceeding. ITV and IALC later requested that their letter be treated as a request for reconsideration of the Mobility Order.

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(“PSN”) or with commercial mobile radio service (“CMRS”) providers for the licensee’s internal control purposes. They also request clarification that the PSN interconnected services definition articulated by the Commission to distinguish between CMRS and private mobile radio service (“PMRS”) providers also applies to IVDS. This clarification does not affect the Commission’s general prohibition on PSN interconnection of IVDS, and is consistent with the Congressional goal of regulating similar services in a similar fashion.³ EON strongly supports ITV and IALC’s request.

DISCUSSION

The Commission concluded in the Mobility Order that IVDS should remain classified as a private, personal communications service,⁴ and therefore generally prohibited IVDS providers from interconnecting to the PSN.⁵ Pursuant to an earlier Commission ruling addressing mobile service providers, however, this prohibition should not extend to interconnection for the IVDS licensee’s internal control purposes. In defining interconnection arrangements with the PSN for CMRS/PMRS classification purposes in this earlier proceeding, the Commission correctly concluded that “interconnected service” does “*not include* interconnection with the public switched network for a licensee’s internal control purposes.”⁶ Thus, PMRS providers may interconnect to the PSN for such limited purposes without losing their private status. Now that the Mobility Order has also conveyed

³ See H.R. Rep. 103-213, 103rd Cong., 1st Sess. 494 (1993) (Conference Report for the Omnibus Budget Reconciliation Act of 1993).

⁴ *Mobility Order* at ¶ 29.

⁵ *Id.*

⁶ *Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, 9 FCC Rcd 1411, 1435 (1994) (“Regulatory Parity Order”) (emphasis added).

PMRS status on IVDS licensees,⁷ IVDS providers cannot be treated differently on this issue. In order to ensure symmetrical regulation of similar services,⁸ the Commission must treat IVDS providers as PMRS providers and allow them to interconnect with the PSN for internal control purposes.

In its opposition to the Petition for Reconsideration, the National Association of Broadcasters ("NAB") opposes ITV and IALC's request for clarification on two grounds.⁹ NAB fails, however, to provide any reasonable basis for denying ITV and IALC's request. First, NAB argues that to permit interconnection to the PSN for internal control purposes would reduce the availability of IVDS operations to serve what NAB considers the original, and apparently only, purpose for IVDS services -- as a return path to enable interactive broadcast materials.¹⁰ The Commission firmly rejected this argument in the Mobility Order, correctly stating that "NAB's contention that IVDS should be developed primarily as an interactive service for use in conjunction with the broadcast industry is misplaced."¹¹ The Commission should again reject NAB's attempts to unnecessarily limit the scope of IVDS services. The Commission has wisely held that, provided that IVDS licensees abide by all technical and regulatory parameters defined in the Commission's rules, they may provide any number of broadcast, business and commercial wireless services.¹² This will ensure

⁷ *Mobility Order* at 6621 ("This determination [on PSN interconnection] is consistent with retaining IVDS as a *private*, although newly *mobile, radio service*." (emphasis added)). Regulatory Parity Order at 1418.

⁸ "The Conference Report [to the 1993 Omnibus Budget Reconciliation Act] explains that the intent of Congress is that 'consistent with the public interest, similar services are accorded similar regulatory treatment.'"

⁹ See Comments of the National Association of Broadcasters on Petitions For Reconsideration/Clarification, filed August 28, 1996 at 6-7 (the "NAB Opposition").

¹⁰ *Id.*

¹¹ *Mobility Order* at ¶ 12

¹² *Mobility Order* at ¶¶ 9-11.


that consumers have the opportunity to enjoy the widest possible service offerings from IVDS providers.

NAB's second argument is equally unavailing. NAB claims to be concerned about increased potential for interference to TV channel 13 because the interconnect wire between the response transmitter unit and the PSN can "act as an antenna."¹³ NAB fails to explain how there is any greater potential for interference from this interconnect wire than from any other telephone equipment interconnect wire that a subscriber might own. Moreover, given that the IVDS signal must be converted to a PSN-compatible signal prior to transmission, the potential for interference to TV channel 13 is actually decreased because the signal transmitted over the PSN does not operate on a frequency adjacent to TV channel 13. Thus NAB has provided no technical basis for its concern.

CONCLUSION

For the reasons stated above, the Commission should expeditiously grant ITV and IALC's request and clarify that the Mobility Order does not prohibit IVDS licensees from interconnecting with the PSN or with CMRS providers for their internal control purposes.

Respectfully submitted,

By: 
Cheryl A. Tritt
James A. Casey
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-1888
Telephone: (202) 887-1500

Counsel for EON Corporation

Dated: September 30, 1996

¹³ *NAB Opposition* at 7.

CERTIFICATE OF SERVICE

I, Kimberly E. Thomas, do hereby certify that the foregoing **REPLY IN SUPPORT OF ITV, INC. AND IVDS AFFILIATES' PETITION FOR RECONSIDERATION/CLARIFICATION** has been furnished, via first class mail, on this 30th day of September, 1996, to the following:

*William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

*Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

*Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

*Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

*Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

*Robert H. McNamara
Chief, Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8010
Washington, D.C. 20554


Henry L. Baumann
Barry D. Umansky
National Association of Broadcasters
1771 N Street, N.W.
Washington, D.C. 20036

Eric Malinen
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W. Room - 8002C
Washington, D.C. 20554J. Jeffrey Craven

William J. Franklin
1200 G Street, N.W.
Suite 800
Washington, D.C. 20005-3814

Paul C. Besozzi
Janet Fitzpatrick
Patton Boggs, L.L.P.
2550 M Street, N.W., 4th Floor
Washington, D.C. 20037

* By Hand


Kimberly E. Thomas